

## **Cabinet**

**10 April 2013**

### **NHS reforms and the transfer of public health functions to Durham County Council**



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#### **Report of Corporate Management Team**

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#### **Purpose of Report**

1. The purpose of this report is to provide an update on developments in relation to NHS reforms, including the transfer of public health functions to Durham County Council from NHS County Durham.

#### **Background**

2. Cabinet has been presented with quarterly update reports on NHS reforms and public health since June 2011. These reports provided details on significant policy developments in relation to the wider NHS reforms and the transfer of public health functions to local authorities.
3. On 1<sup>st</sup> April 2013, Strategic Health Authorities and Primary Care Trusts were abolished, Clinical Commissioning Groups took on responsibility for health care budgets for their local communities and Local Healthwatch was established to give local people a say in how health and social care services are provided.
4. In addition, Health and Wellbeing Boards became responsible for:
  - Supporting integrated working between health and social care commissioners and providers, and encouraging the use of, for example, pooled budgets, lead commissioning and integrated provision.
  - Involving local people in certain elements of their work, reflecting the government's plans for stronger democratic legitimacy and community involvement in health and social care.
  - Tackling health inequalities and leading on the development of a local Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.

5. Also on 1<sup>st</sup> April 2013, Durham County Council assumed its new role across the three domains of public health (health improvement, health protection and health services) and, in addition to improving the health of local people, the council is now required to ensure that NHS commissioners are provided with public health advice.
6. During the transitional phase, the pace of change has been fast and there have been challenges to face, as the new NHS system is complex and will need time to embed. Throughout the transitional phase there has been regular reporting to Cabinet, and to both the Adults, Wellbeing and Health and Children and Young People's Overview and Scrutiny Committees in order to keep key stakeholders up to date and aware of these important issues. Moreover, partners have continually worked together to try to ensure a smooth transition but the process has been difficult. Delays were experienced with the public health finance allocations and regulations were also delayed in areas such as the Health and Wellbeing Board. These issues have been managed carefully by Durham County Council working with partners.
7. Government key milestones can be found in Appendix 2.

## **National Developments**

8. The National Quality Board (NQB) published a report in January 2013, setting out how quality will be maintained and improved in the new health system. The NQB brings together the national organisations across the health system responsible for quality, including the Care Quality Commission, Monitor, the NHS Trust Development Authority, the National Institute for Clinical Excellence, the General Medical Council, the Nursing and Midwifery Council, the NHS Commissioning Board, Public Health England and the Department of Health. The report focuses predominantly on how the new system should prevent, identify and respond to serious failures in quality and provides a collective statement from NQB members as to the nature and place of quality in the new health system.
9. The Francis Inquiry Report into the care provided by Mid Staffordshire NHS Foundation Trust was published on 6<sup>th</sup> February 2013. The Inquiry Chairman, Robert Francis QC, concluded that: "It is not the system itself which will ensure that the patient is put first day in and day out. It is the people working in the health service and those charged with developing healthcare policy who need to ensure that is the case. The extent of the failure of the system shown in this Inquiry's report suggests that a fundamental culture change is needed. That does not require a root and branch reorganisation, but it requires changes which can largely be implemented within the system that has now been created by the new reforms".
10. Robert Francis QC made 290 recommendations in his report and commented that 'the report identified numerous warning signs which cumulatively, or in some cases singly, could and should have alerted the system to the problems developing at the Trust'. The warning signs include:
  - Standards and methods of measuring compliance which did not focus on the effect of a service on patients
  - Too great a degree of tolerance of poor standards and of risk to patients

- Assumptions that monitoring, performance management or intervention was the responsibility of someone else.

Health Secretary Jeremy Hunt and NHS Chief Executive Sir David Nicholson have written to NHS leaders around the country and asked them to hold staff listening events following the publication of Robert Francis's report, to help the NHS discuss and learn from the report.

11. In January 2013, the Department of Health announced the public health ring-fenced grants for 2013-14 and 2014-15, with local authorities having £2.66 billion and £2.79 billion respectively to spend on public health services for their local populations. Average growth of 5.5% has been provided in 2013-14 and 5.0% in 2014-15, and a significant number of local authorities will see growth of 10% in each year, representing a major investment in health and the prevention of illness. The grant conditions and reporting arrangements which will apply to the grant from April 2013 have also been published.
12. Information on the public health allocation for County Durham is outlined in paragraph 32 of this report.

### **Regional Developments**

13. On 1<sup>st</sup> April 2013, Primary Care Trusts across the North East were phased out and twelve Clinical Commissioning Groups took over responsibility for planning and purchasing the majority of healthcare in the region.
14. The North of England Commissioning Support (NECS) unit assumed responsibility for many of the support services to enable Clinical Commissioning Groups to fulfil their new roles. Two new Area Teams took on their new support responsibilities: one for Cumbria, Northumberland and Tyne & Wear; and one for County Durham and Tees.
15. Dr. Roberta Marshall (previously the Health Protection Agency North East regional director) was appointed as the Public Health England (PHE) North East Centre Director. As one of the fifteen PHE centres nationally, PHE North East will not duplicate the work of local authorities but will:
  - Provide local presence and leadership
  - Develop and maintain key relationships with partners, including councils, local resilience fora and the NHS
  - Support and influence delivery of improved health outcomes
  - Provide support to maximise health improvement
  - Protect and improve health and wellbeing
  - Reduce inequalities
  - Work within the wider health and social care and public health system
  - Be an expert resource with specialist skills.
16. Two NHS Commissioning Board Area Teams have been established in the North East - one for Cumbria, Northumberland and Tyne & Wear; and one for Durham, Darlington and Tees. They have responsibility for:

- Clinical Commissioning Group development and assurance
- Emergency planning, resilience and response
- NHS quality and safety
- NHS system oversight
- Commissioning primary care (GPs, dentists, community pharmacists and opticians)
- Commissioning of specialised NHS services (these services treat either rare conditions or those that need a specialised team working together at a centre. The conditions treated range from long-term conditions, such as renal and specific mental health problems, to rarer conditions such as uncommon cancers, burn care and specialised services for children / cardiac surgery).
- Clinical networks

## **Developments in County Durham**

### **County Durham Health and Wellbeing Board**

17. The last meeting of the Shadow Health and Wellbeing Board took place on 6<sup>th</sup> March 2013. The statutory Health and Wellbeing Board will hold its inaugural meeting in June 2013.
18. The Health and Wellbeing Board's future work programme will consider the following over the coming months:
  - Agree the Joint Health and Wellbeing Strategy delivery plan
  - Consider the implications of the Winterbourne Review which looked at the care provided to people with learning disabilities at Winterbourne View Care Home
  - Consider the implications of the Francis Review (final report on the Mid Staffordshire NHS Foundation Trust Public Inquiry)
  - A memorandum of understanding in relation to future public engagement mechanisms between the local authority and Clinical Commissioning Groups in County Durham, with a forward plan of future engagement activities
  - A review of intermediate care services

### **Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy**

19. A revised Joint Strategic Needs Assessment 2013 will be developed by August 2013, in line with the review of the Joint Health and Wellbeing Strategy and the Children, Young People and Families Plan.
20. The Joint Health and Wellbeing Strategy will be implemented through its delivery plan from April 2013, to meet the strategic objectives in the strategy, which are:
  - Children and young people make healthy choices and have the best start in life
  - Reduce health inequalities and early deaths
  - Improve the quality of life, independence and care and support for people with long term conditions
  - Improve mental health and wellbeing of the population
  - Protect vulnerable people from harm
  - Support people to die in the place of their choice with the care and support that they need

21. The Adults, Wellbeing and Health and Children and Young Peoples Overview and Scrutiny Committees will continue to be consulted and engaged on the development of the revised Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy as appropriate.

### **Clinical Commissioning Groups**

22. In January 2013, Durham Dales Easington and Sedgefield (DDES) Clinical Commissioning Group was authorised by the NHS Commissioning Board to take on budgetary responsibility for its local population. North Durham Clinical Commissioning Group was granted authorisation in March 2013.
23. Both Clinical Commissioning Groups have developed their commissioning intentions for 2013/14 and these were presented to the Shadow Health and Wellbeing Board in March 2013. Joint priorities have been aligned to the Joint Health and Wellbeing Strategy.
24. Durham County Council is working collaboratively with both Clinical Commissioning Groups to develop a system-wide improvement to a number of services, including intermediate care services and continuing healthcare.

### **Local Healthwatch**

25. Local Healthwatch will give citizens and communities a stronger voice to influence and challenge how health and social care services are provided within their locality.
26. The contract for Local Healthwatch in County Durham was awarded to the Carers Federation and became effective on 1<sup>st</sup> April 2013. The Healthwatch Programme Manager is Jayne Bell and the Project Manager for County Durham is David Logan.
27. Local Healthwatch is a statutory member of the Health and Wellbeing Board from April 2013 and will attend all future meetings. The role of Local Healthwatch will be key in ensuring that the views of service users and patients are fed into the development of the revised Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
28. A transition plan was developed and implemented to ensure a smooth handover process from the Local Involvement Network to the Carers Federation.

### **NHS complaints advocacy**

29. From 1<sup>st</sup> April 2013, as part of the Health and Social Care Act 2012, the NHS Independent Complaints Advocacy Service was commissioned by local authorities for their local areas. The service supports people who wish to make a complaint about their NHS care or treatment.
30. The Carers Federation has been awarded the contract to provide the regional complaints advocacy service (with the exception of Northumberland) from April 2013. This organisation already provided this service in the North East prior to April 2013.

31. Gateshead Borough Council is taking the lead commissioner role for the North East councils for the NHS Independent Complaints Advocacy Service.

### **Public health funding**

32. On 10<sup>th</sup> January 2013, Durham County Council received its ring-fenced budget allocations for a two-year period from April 2013. The allocation is £44.5m for 2013/14 and £45.8m for 2014/15, which is seen as positive for County Durham. This reflects a 2.8% increase between the years; however this is below the average growth figure of 5.5%
33. Public health budget allocations for the other councils in the North East were also seen as positive for 2013/14 and 2014/15.
34. There continues to be concerns over future public health allocations and how the government will calculate the allocations from 2015/16. Work is ongoing through the Advisory Committee on Resource Allocations (ACRA) to develop the new formula for future allocations.

### **Public health contracts**

35. A workshop with public health service providers took place in January 2013 and presentations were delivered by the Director of Public Health County Durham, the Head of Commissioning for Children and Adults Services at Durham County Council and the Head of Strategic Commissioning and Health Partnerships at Darlington Borough Council.
36. Providers were given information on the new NHS landscape and new public health responsibilities for local authorities, an update on transition arrangements, and an opportunity for discussion and questions.
37. Interim contracts have been issued for 2013/14 and the terms and conditions broadly follow Department of Health guidance.

### **Transfer of public health functions and staff to Durham County Council**

38. The Director of Public Health delegations have been included in the annual review of the Durham County Council Constitution, which was presented to Cabinet on 13<sup>th</sup> March 2013 and Full Council on 20<sup>th</sup> March 2013.
39. A public health legacy document was produced by the Director of Public Health County Durham, to ensure the safe handover of the Primary Care Trust public health responsibilities to Durham County Council from 1<sup>st</sup> April 2013. The document included the five mandated functions (listed below) and outlined the responsibility for commissioning a range of services based on the needs of the population:
- Taking steps to protect the health of the population
  - Access to sexual health services
  - National child measurement programme
  - NHS health checks
  - Specialist public health support to NHS commissioners

40. In addition, the council is now responsible through the Director of Public Health for elements of health protection including healthcare acquired infections, communicable disease outbreaks, aspects of the response to major incidents where there is a risk to the health of the public and oversight of all immunisations and screening programmes.
41. A due diligence exercise will be completed by the end of April 2013 to provide assurance that the transition process has been successfully carried out by Durham County Council.
42. All public health staff are now located within County Hall. An induction programme ensured that public health colleagues had the necessary knowledge in relation to local government processes and arrangements, to enable a smooth transition to the Council.

### **Medical Examiner Role**

43. Following the passing of the Health and Social Care Act 2012, responsibility for the provision of Medical Examiners will transfer from Primary Care Trusts to local authorities from April 2014.
44. A Medical Examiner is a medically qualified officer whose duty is to investigate (as necessary) deaths and injuries which occur under unusual or suspicious circumstances. The role of the Medical Examiner is to determine cause of death and issue death certificates, working with the coroner's office.
45. The Head of Legal and Democratic Services will be forming a project team to advance this matter, on the understanding that further information will be made available after April 2013.

### **Conclusion**

46. It has been a challenging time for all organisations involved in the new NHS landscape. The speed of the NHS reforms has been fast and a great deal of work has been carried out in partnership to meet the provisions in the Health and Social Care Act 2012.
47. This has included the transfer of public health staff and functions from County Durham and Darlington Primary Care Trust to the two local authorities (Durham County Council and Darlington Borough Council), establishing a Health and Wellbeing Board for County Durham, producing a Joint Strategic Needs Assessment and a Joint Health and Wellbeing Strategy for County Durham, creating Clinical Commissioning Groups, establishing Local Healthwatch and contracting an NHS Independent Complaints Advocacy Service.

## **Recommendations**

48. Cabinet is recommended to:

- Accept the report and agree that further quarterly reports are submitted to Cabinet for the next twelve months in order to update Cabinet on any further or emerging issues linked to transition.

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## **Background Documents**

There are no background documents for this report.



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## Appendix 1 - Implications

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**Finance** – Durham County Council has received a ring-fenced budget for public health for 2013/14 and 2014/15. Beyond April 2015, the level of public health funding for County Durham may be reduced.

**Staffing** – Public health staff have now successfully transferred to Durham County Council from NHS County Durham.

**Risk** – The risks involved in the transfer of public health functions from NHS County Durham to Durham County Council were monitored throughout the transition phase and the necessary controls, evidence and quality assurance were in place to ensure a successful transfer.

**Equality and Diversity / Public Sector Equality Duty** – Under provisions in the Health and Social Care Act, the Secretary of State, the NHS Commissioning Board and Clinical Commissioning Groups will have a duty to reduce health inequalities.

Equality Impact Assessments are carried out as part of the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.

**Accommodation** – Suitable accommodation has been provided for the public health staff who transferred to Durham County Council from NHS County Durham and Darlington.

**Crime and Disorder** – The Joint Strategic Needs Assessment considers the wider determinants of health and wellbeing within a local authority's area, including crime and disorder issues and signposts to the Safe Durham Partnership Strategic Assessment.

The Director of Public Health County Durham has a role to work with the Police and Crime Commissioner to promote safer communities.

**Human Rights** – There are no direct implications.

**Consultation** – The government has consulted with patients and professionals on the NHS reforms and key policy in relation to public health reform. Local consultation has taken place in the development of the Joint Health and Wellbeing Strategy.

**Procurement** – The commissioning of public health services from 1<sup>st</sup> April 2013 has been taken into account and will be reviewed again towards the end of the current financial year.

**Disability Discrimination Act** – There are no direct implications.

**Legal Implications** – Durham County Council's Constitution has been updated to take account of provisions in the Health and Social Care Act 2012.

## Appendix 2 - Key Milestones

<b>Date</b>	<b>Key Milestones</b>
<b>April 2013</b>	<p>Strategic Health Authorities and Primary Care Trusts are abolished</p> <p>NHS Commissioning Board (NHS CB) takes on its full functions</p> <p>NHS Trust Development Authority takes over Strategic Health Authority responsibilities for the foundation trust 'pipeline' and for the overall governance of NHS Trusts</p> <p>Public Health England established as an executive agency of the Department of Health</p> <p>New clinical commissioning system is set up across England and all 211 Clinical Commissioning Groups are ready to take up their statutory responsibilities on behalf of local communities</p> <p>Formal commissioning arrangements implemented between Public Health England, NHS CB, Clinical Commissioning Groups and local authorities</p> <p>Health and Wellbeing Boards assume statutory responsibilities</p> <p>Local authorities will have a duty to improve the health of their populations</p> <p>Local authorities will take formal responsibility for commissioning the NHS Independent Complaints Advocacy Service</p> <p>Local public health budgets allocated</p> <p>Monitor's licensing regime is fully operational</p> <p>Local authorities take responsibility for Directors of Public Health and their functions</p> <p>Launch of Local Healthwatch</p>
<b>April 2014</b>	<p>The majority of remaining NHS Trusts will be authorised as Foundation Trusts - if any trust is not ready, it will continue to work towards Foundation Trust status under new management arrangements</p> <p>Local Medical Examiner service transferred to local authorities</p>
<b>April 2016</b>	<p>Monitor's transitional powers of oversight over Foundation Trusts will be reviewed</p>